Court No. 2

Writ Petition No. 7286 (M/S) of 2001
(Old No. 18537 of 1996)

Madan Mohan Dubey …… Petitioner

Vs.

State of U.P. and another. …… Respondents.

……..

Hon'ble P.C. Verma, J.

This writ petition has been filed by the petitioner challenging the order dated 27.03.1996 passed by the Labour Court in case No. 83 of 1991, by which the Labour Court has dismissed the claim of the petitioner/workman holding that the petitioner has not been deprived from the work by the employers rather he himself had resigned.

The Labour Court has recorded a finding that the employee is workman and the employer has been held to be Industry. The reference has not been decided in favour of the petitioner only on the ground that the petitioner himself tendered his resignation. Therefore, cessation from service did not amount to retrenchment.

From the perusal of the finding recorded by the Labour Court on the issue, it is evident that the Labour Court has not gone into verification of the signature and the difference between the signature of the employee and the writing of the contents, which according to the learned counsel for the petitioner, were different. There is no finding on the plea taken by the petitioner that the action was taken on a blank signed paper kept by the petitioner which was taken out some how. Since this material aspect has not been dealt with by the Labour Court, therefore the order dated 27.03.1996 is set aside. The Labour Court is directed to reconsider the matter and pass the order after considering the material fact which was genuine one.

The petition is disposed of accordingly. The Labour Court shall decide the matter within two months from the date of production of certified copy of this order.

(P.C. Verma, J)

11.12.2002
P. Singh